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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/001,662	10/18/2001	Thiru Srinivasan	1585C (42059-01380)	4124

7590 10/20/2006  
Marsh Fischmann & Breyfogle LLP  
Suite 411  
3151 S. Vaughn Way  
Aurora, CO 80014

EXAMINER

ALVAREZ, RAQUEL

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 10/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/001,662

Applicant(s)

SRINIVASAN ET AL.

Examiner

Raquel Alvarez

Art Unit

3622

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 11 October 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

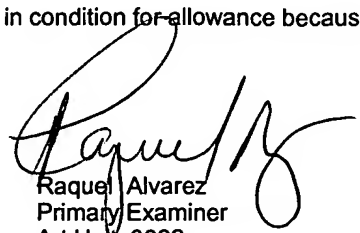
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: See Continuation Sheet.

  
Raquel Alvarez  
Primary Examiner  
Art Unit: 3622

Continuation of 13. Other: Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues that some of the independent claims limitations were not addressed, the Examiner disagrees with Applicant because the claims argued by Applicant are clearly taught by Rangan and were addressed by the Examiner.

Applicant argues that Rangan doesn't teach demographic information for the system user is received through a screen display. The Examiner disagrees with Applicant because Rangan teaches on col. 29, lines 35-39 that the user's interest such as the user's click throughs is obtained from the screen that the user is watching. In addition, Wachob teaches the demographic information is input by the user via a remote control(see Abstract).

Applicant argues that Rangan doesn't teach insertion of commercial based on demographic information. The Examiner disagrees with Applicant because in Rangan, the system inserts targeted links (commercials) based on the received user's preferences.

Applicant argues that Wachob doesn't teach detecting a commercial break. The Examiner disagrees because Wachob on Figure 3, item 154 that the system determines if a commercial is about to occur? And if it demographic information is available for the user at step 158, then retrieving targeted commercials based on the user's information.

In response to applicant's argument that Wachob is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Wachob is pertinent to solving the problem with which Applicant is concerned which is transmitting targeted information to the users during a commercial break (see Figure 3 of Wachob).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, a person skilled in the art is presumed to have some knowledge in the art.

Applicant argues that Rangan doesn't teach monitoring of system users. The monitoring of the user's click throughs is the monitoring of the system user.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant argues that the references do not teach querying the system user to receive demographic information, the Examiner disagrees because Wachob teaches on col. 3, lines 4-9, "In accordance with the present invention, the remote control comprises means for enabling a user to input demographic data to the converter. Such means can comprise a plurality of switches for entering information indicative of the sex and age of the user" The makes a query to the user for the information in the form of a survey or diary information which the user responds by inputting the required information into the system (col. 1, lines 48-59).

With respect to claim 11, Applicant argues that the references do not teach receiving a login ID from the user. The Examiner disagrees with Applicant because in Rangan the user logs into the network so therefore an identifier must exist.

With respect to claim 22, Applicant argues that neither Rangan nor Wachob teach a schedule database for storing the screen display which are presentable in which the user enters demographic information. The combination of Rangan and Wachob teach obtaining, storing and retrieving the user's demographic information that was input by the user, and retrieving the demographic information so that it can be matched with the targeted commercial (see Rangan col. 29, lines 35-39 and Wachob Figure 3 and Abstract). With respect to the Official notice taken that a schedule database is well known. Since, Applicant didn't command a proper challenge that would at least cast reasonable doubt on the fact taken notice of, the Official notice is sustained. See MPEP 2144.03 where *In re Boon* is mentioned.